

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**WALTER FERGUSON and
CHARLENE FERGUSON,**

Plaintiffs,

v.

**OPTION ONE MORTGAGE
CORPORATION, et al.,**

Defendants.

)
)
)
)
)
)
)
)
)
)
)

1:11CV670

**ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter comes before the Court on motions filed by *pro se* Plaintiffs Walter Ferguson and Charlene Ferguson, including (1) a motion to produce discovery pursuant to a subpoena duces tecum (Docket No. 4); (2) a motion for a temporary restraining order and preliminary injunction (Docket No. 9); and a motion requesting that the Court deny the Defendants' request for an enlargement of time to respond to the complaint (Docket No. 12).

Plaintiffs' motion for discovery is **DENIED** since there has been no initial pretrial order as yet in this case and no order opening a period of discovery. *See* Fed. R. Civ. P. 26(d)(1). **IT IS RECOMMENDED** that Plaintiffs' motion for a temporary restraining order or preliminary injunction be denied. Plaintiffs are not entitled to a temporary restraining

order since they have not shown an immediate risk of irreparable harm before the adverse party can be heard. *See* Fed. R. Civ. P. 65(b)(1)(A). With regard to the request for a preliminary injunction, wherein Plaintiffs seek to overturn an order of foreclosure against 905 Spring Lane, Sanford, North Carolina, the request should be denied. Plaintiffs seeks directly to have a state court ruling in a civil action overruled. Such a request appears outside the jurisdiction of this court by reason of the Rooker-Feldman doctrine. *See Exxon Mobil Corp v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Accordingly, Plaintiffs cannot make a requisite showing of likely success in support of their request for a preliminary injunction. Plaintiffs' motion filed as Docket No. 12 is **MOOT** in view of the Court's Order of September 27 (Docket No. 15).

/s/ P. Trevor Sharp
United States Magistrate Judge

Date: January 18, 2012